

## Remarks

### Amendments to the Claims

Independent claim 69 as amended is directed to a method of inhibiting tumor cell growth in an animal comprising administration of a composition consisting essentially of a hemagglutinating virus of Japan envelope (HVJ-E) as an active ingredient. This subject matter is supported throughout the specification. For example, the results of Study 1 reveal that administration of HVJ-E inhibits growth of tumor cells, as evidence by the tumor volume of 82.9% in the HVJ-E group as compared to the control group. See paragraph [0214] and Figure 1. In addition, the results of Example 5 reveal that an increase in tumor volume can be inhibited even in the HVJ-E alone group; see paragraph [0276]; Figure 16; and Figure 17.

New dependent claim 92 recites that anti-tumor immunity in the animal is enhanced. This claim is supported by Example 5, which demonstrates that HVJ-E-induces IL-12 and IL-16 in dendritic cells, and by Example 6, which shows that HVJ-E inhibits regulatory T cells. See paragraph [0282]; Figure 18; paragraph [0285]; and Figure 20. These results indicate enhanced anti-tumor immunity.

### Rejection of Claims 69-72 Under 35 U.S.C. § 102(b)

Claims 69-72 are rejected under 35 U.S.C. § 102(b) as anticipated by Kaneda (EP 1 170 363). Claims 70-72 are canceled. Applicants respectfully traverse the rejection of claim 69.

Claim 69 as amended is directed to a method for inhibiting tumor cell growth in an animal comprising administration of an effective amount of a composition which consists essentially of HVJ envelope as an active ingredient. A reference cited under 35 U.S.C. § 102 must expressly or inherently describe each element set forth in the rejected claim. *Verdegaal*

*Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Kaneda does not disclose each element of claim 69 as amended. Kaneda discloses use of HVJ-E as a gene transfer vector for introducing a foreign gene, and teaches that HVJ-E encompasses a foreign gene. See paragraph [0033] of Kaneda. Kaneda does not disclose a method for inhibiting tumor cell growth by administering a composition consisting essentially of an HVJ envelope which, as the specification teaches, is obtained by removing genetic material from a virus. See page 17, lines 25-26.

Kaneda does not teach each element of claim 69 and therefore does not anticipate the claimed method. The argument set forth above applies with equal force to new claim 92. Please withdraw the rejection.

Respectfully submitted,  
**BANNER & WITCOFF, LTD.**  
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